

made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803).

Additionally, the examiner asserted that applicants are required to pick one element from claims 2, 4, 5 and 19. Applicants respectfully assert that the members of the Markush group in claims 2, 4, 5 and 19 are sufficiently few in number and/or are so closely related that a search of the entire claim can be made without serious burden.

Nevertheless, applicants elect the following species: Cre recombinase of bacteriophage P1 (claim 2), the sequences Lox P (claim 4), all or part of the D hinge region of a nuclear estrogen receptor (claim 5), and RXR $\alpha$  (claim 19). The examiner, however, is reminded to follow the procedure in M.P.E.P. 803.02 and extend the search to the other species recited in claims 2, 4, 5 and 19, should the elected species be free of the prior art.

### CONCLUSION

Applicants request that the examiner reconsider her position regarding this restriction requirement and examine the claims of Group (i)-(xii) as one invention, for the reason set forth above.

Applicants, of course, reserve the right to file divisional applications covering the subject matter of the non-elected claims.

Applicants respectfully request examination on the merits of this application. Should there be any questions concerning this application, Examiner Qian is invited to contact the undersigned at the number listed below.

Respectfully submitted,

Date March 31, 2003

By 

FOLEY & LARDNER  
Washington Harbour  
3000 K Street, N.W., Suite 500  
Washington, D.C. 20007-5109  
Telephone: (202) 672-5569  
Facsimile: (202) 672-5399

Stephen B. Maebius  
Attorney for Applicant  
Registration No. 35,264